

GIB/KA/POPULAR VEHICLES/16.04.2021/OTHERS-19

Others Category : CENVAT CREDIT

State : Karnataka

Order No.: GIB/KA/POPULAR VEHICLES/16.04.2021/OTHERS-19

Name of Entry :
POPULAR VEHICLES AND SERVICES LTD.

Date : 16-04-2021

Breif Issue :

FACT OF THE CASE:

In this case the appellant Popular Vehicles and Services Ltd is an Authorized Service Station and on verification of the appellant's financial record, the Department entertained the view that the appellant is rendering free service and warranty labour charges which is a taxable service but the appellant has not paid any service tax on the said taxable service and the appellant has also not maintained separate accounts of input services utilized for providing exempted services as required under Cenvat Credit Rules, 2004 and has not complied with the conditions prescribed under Rule 6(3) of the Cenvat Credit Rules, 2004. On these allegations, 4 show-cause notices were issued and after following the due process, the demand to the extent of Rs. 23,725/- (Rupees Twenty Three Thousand Seven Hundred and Twenty Five only) was confirmed along with interest under Section 75 and the original authority has also imposed penalty of Rs. 2,000/- (Rupees Two Thousand only) in terms of Rule 15(1) of Cenvat Credit Rules, 2004 read with Section 76 of the Act. Aggrieved by the said order, appellant filed appeal before the Commissioner who rejected the same.

ISSUE OF THE CASE:

Whether the appellant is liable to pay service tax on free service and warranty labour provided to customers without any consideration

Decision of Advance Ruling Authority :

DECISION:

As per the Department, the free service is an exempted service and therefore, the appellant is liable to reverse 6/7% of the value of exempted service which was not done by the appellant

The cost of these services are included in the cost of the product accounted at sales

showroom and VAT has been paid at the time of sale of the vehicle which is cleared from the cenvat reversal at sales showroom under Rule 6(3A) - learned Commissioner neglected the facts that the income accounted in the Books of Account are through notional entries and these costs are included in the cost of product as confirmed in the refund order.

The confirmation of demand of ₹ 23,725/- under Rule 6(3)(i) of Cenvat Credit Rules, 2004 is not sustainable in law - appeal allowed - decided in favor of appellant.